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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues in relation to the second periodic report of Mauritania*

Issues identified for follow-up in the preceding concluding observations

1. In its previous concluding observations (see CAT/C/MRT/CO/1, para. 30),[1] the Committee requested the State party to provide information on the follow-up given to its recommendations formulated in paragraphs 10 (c), 22 (a) and (b) and 18 (a) of the document, concerning: (a) the repeal of the provision under which persons may be held in police custody for up to 3 consecutive periods of 15 days in connection with terrorist acts or threats to national security, and the strengthening of legal safeguards for detainees; (b) the improvement of the conditions of detention in all of the State party's prisons; and (c) the prosecution and punishment of perpetrators of acts of torture and ill-treatment. The Committee regrets that the State party has not provided the information requested, despite the reminder letter addressed to the State party by the Rapporteur for follow-up to concluding observations on 7 July 2014. The Committee considers that the recommendations contained in paragraphs 10 (c), 22 (a) and (b) and 18 (a) of its previous concluding observations have not yet been fully implemented (see paras. 3 (g), 16 (c) and (d) and 20 below).

Articles 1 and 4

2. In view of the adoption in 2015 of the new Act on Combating Torture (Act No. 2015-033), which criminalizes torture and sets out a definition of the crime in line with article 1 of the Convention, please provide updated information on the process of adoption of the implementing decrees pertaining to the Act.

* Adopted by the Committee at its sixty-second session (6 November–6 December 2017).

[1] Unless otherwise indicated, the paragraph numbers in parentheses refer to the Committee's previous concluding observations.

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Article 2[2]

3. In light of article 4 of the new Act on Combating Torture, which enshrines all fundamental legal safeguards against torture from the outset of the deprivation of a person's liberty,[3] please indicate the measures taken to:

(a) Effectively implement the Act on Combating Torture in such a way as to ensure its primacy over older and more general legislation, according to the principles of *lex specialis derogat legi generali* and *lex posterior derogat legi priori*, as recommended by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;[4]

(b) Ensure, in practice, access to a lawyer from the outset of deprivation of liberty and in full confidentiality, for all detained persons,[5] including those held for offences related to terrorist acts and other offences against national security. Indicate whether the State party envisages amending the legislative provisions that conflict with article 4 of the Act on Combating Torture regarding access to a lawyer, particularly article 58 of the Code of Criminal Procedure, which stipulates that: (i) access to a lawyer is possible only after the first extension of police custody (48 hours or 72 hours for drug-related crimes) on the authorization of the public prosecutor, for half an hour and under police supervision; and (ii) persons held on suspicion of terrorist acts do not have access to counsel throughout the duration of police custody;[6]

(c) Expedite the adoption of the implementing decree pertaining to the Legal Aid Act (Act No. 2015-030). Please also indicate the measures envisaged to ensure that indigent defendants have access to an officially assigned defence counsel;[7]

(d) Ensure that all detainees enjoy, in practice, the right to contact the person of their choosing to inform that person of where they are being detained from the outset of their deprivation of liberty. Specify whether there are still cases of incommunicado detention and what the criteria for its use are;

(e) Ensure that detainees are informed of their rights, the reasons for their arrest and the charges against them;

(f) Ensure that all detained persons are informed of and may exercise, from the outset of their deprivation of liberty, the right to request a confidential medical examination by an independent doctor or a doctor of their choosing;

(g) Make the necessary legislative changes to ensure that the maximum duration of police custody does not exceed 48 hours, irrespective of the charges brought.[8] Specify whether the legality of custody is subject to appeal (habeas corpus) and indicate, for the period since 2013, how many detentions have been declared illegal or arbitrary by judges;

(h) Update existing logbooks to record the minimum information required under article 4 of the Act on Combating Torture, as recommended by the Special Rapporteur on torture.[9]

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[2] The issues raised under article 2 can also be raised under other articles of the Convention, such as article 16. As indicated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties: The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also part V of the general comment.

[3] See CAT/C/MRT/2, paras. 4 and 20.

[4] See A/HRC/34/54/Add.1, paras. 17 (b), (c) and (d).

[5] Ibid., para. 119 (b).

[6] Ibid., paras. 75 to 79.

[7] Ibid., para. 80.

[8] See CAT/C/MRT/CO/1, para. 10 (c); and A/HRC/34/54/Add.1, paras. 22 and 33.

[9] See A/HRC/34/54/Add.1, paras. 58 and 119 (a).

4. In view of the promulgation in 2015 of the Act establishing the national preventive mechanism (Act No. 2015-034)[10] and the appointment of members to the national preventive mechanism by decree on 20 April 2016,[11] please indicate the measures taken to:

(a) Increase the transparency of the procedure for the selection of members, and strengthen the mechanism's independence;

(b) Ensure that the national preventive mechanism has sufficient resources to fully carry out its mandate.[12]

5. With reference to the Committee's previous concluding observations (para. 13) and taking into account the adoption by the Senate on 19 June 2017 of the new draft organizational law governing the composition, organization and functioning of the National Human Rights Commission, please:

(a) Specify whether the amendments to the law strengthen the independence of the National Human Rights Commission.[13] Indicate what measures have been put in place to give effect to the previous recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions;

(b) Provide examples of recommendations made by the National Human Rights Commission relating to the prevention of torture and ill-treatment that have been implemented by the authorities during the period since 2013.

6. Please describe the measures taken to ensure that effective protection against intimidation, threats and arbitrary detention is provided for human rights defenders. Provide, for the period since 2013, statistics on the number of complaints of intimidation, harassment or arbitrary detention of members of civil society, the outcome of investigations into those complaints, and the convictions and sentences handed down in cases most likely related to their activities or to the fact that they had reported human rights violations.

7. With regard to the Committee's previous concluding observations (para. 23) and the information provided by the State party,[14] please provide further information on the measures taken to combat gender-based violence. Please provide, in particular, annual statistics for the period since 2013, disaggregated by type of offence, on the number of complaints of gender-based violence filed with and recorded by the police, the number investigated and, of those, the number that led to prosecution and conviction and on the penalties imposed in each case.[15]

8. With regard to the Committee's previous concluding observations (para. 21) and taking into account the adoption of Act No. 2015-031 on slavery, please comment on reports that a large number of members of the judiciary do not initiate investigations into allegations of slavery. Given that the new law on slavery provides for the punishment of persons who fail to follow up on a complaint, please indicate the number of prosecutions undertaken in relation to violations of this obligation since the enactment of the law. In this connection, please provide updated data, disaggregated by the age, sex and ethnicity of the victims, on the number of complaints, investigations, prosecutions, convictions and the nature of sentences since the consideration of the State party's previous report. Please indicate, for each year since 2013, the number of investigations conducted into such cases which automatically led to proceedings and the number of victims who obtained reparation.

[10] See CAT/C/MRT/2, para. 58.
[11] See A/HRC/34/54/Add.1, para. 10.
[12] Ibid.
[13] See CAT/C/MRT/2, paras. 33 to 41.
[14] Ibid., paras. 138 to 140.
[15] See CEDAW/C/MRT/CO/2-3, para. 27.

Article 3

9. Taking into account the Committee's previous concluding observations (para. 16) and the information in the State party's report,[16] please provide data for the period since 2013, disaggregated by year, regarding:

(a) The number of appeals against decisions regarding expulsion and the number of decisions regarding return or expulsion that were set aside by the courts on the grounds that the applicants had been tortured or were likely to suffer torture if they were returned or expelled;

(b) The percentage of cases in which free legal aid was granted to asylum seekers and persons facing extradition or expulsion.

10. Please provide data for the period since 2013, disaggregated by year and country of origin, concerning:

(a) The number of asylum requests registered;

(b) The number of requests for asylum, refugee status or other forms of humanitarian protection that were granted;

(c) The number of persons extradited, expelled or returned and the countries to which they were removed.

11. Please comment on the reports that irregular migrants have been expelled to Senegal[17] and clarify whether those persons have been able to challenge the decision regarding their expulsion.

12. Please also indicate whether investigations have been conducted into the allegations of violence and even live fire against foreign fishermen on Mauritanian vessels by the brigade responsible for carrying out checks on foreign nationals and the Mauritanian coastguard, and if so, describe the outcome of those investigations.

Articles 5–9

13. Please indicate whether the State party has rejected, for any reason, the request of another State for the extradition of an individual suspected of having committed torture and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

Article 10

14. Taking into account the Committee's previous concluding observations (para. 17) and the information in the State party's report,[18] please state whether all persons involved in the custody, interrogation or treatment of persons deprived of their liberty receive training[19] on:

(a) The provisions of the Convention and the Act on Combating Torture;

(b) Non-coercive investigatory and restraint techniques, as well as the principle of the use of force as a last resort;[20]

(c) Guidelines for the detection of signs of torture and ill-treatment, reflecting the standards set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).[21]

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[16] See CAT/C/MRT/2, paras. 68 to 76.
[17] See A/HRC/34/54/Add.1 para. 37.
[18] See CAT/C/MRT/2, paras. 77 to 79; A/HRC/16/17, para. 91.13; and A/HRC/34/54/Add.1, para. 54.
[19] See A/HRC/WG.6/23/MRT/3, para. 62.
[20] See A/HRC/34/54/Add.1, paras. 121 (a) and (b).
[21] See CCPR/C/MRT/CO/1, para. 14.

Article 11

15. In light of the Committee's previous concluding observations (para. 22) and reports that persons suspected of terrorism or a related offence are often held in unofficial detention locations for interrogation,[22] please clarify whether investigations have been carried out into the alleged use of unofficial detention centres, such as the basement of the police station in the fourth district of Nouakchott. If so, please describe the outcomes of those investigations. Please indicate whether the State has initiated investigations into allegations that Senator Mohamed Ould Ghadda, who was arrested at his home on 10 August 2017, and Mohamed Ould Israël, who was extradited from the United Arab Emirates on 18 February 2016 and is being held in an undisclosed location, are being arbitrarily detained.

16. With reference to the Committee's previous concluding observations (para. 22) and the information in the State party's report,[23] please provide the following, for the period since 2013:

(a) Annual statistics, broken down by place of detention, on the total capacity and level of occupancy of all detention facilities, giving the numbers of remand and convicted prisoners;[24]

(b) Information on measures taken to ensure the separation of remand prisoners from convicted prisoners, minors from adults and women from men,[25] and on the number of places of deprivation of liberty where detainees are not yet separated in this way;

(c) Information on measures taken to reduce the rate of overcrowding in places of detention, which is reportedly over 150 per cent in some facilities;

(d) Information on efforts to increase the quantity and quality of food and access to drinking water[26] in prisons, especially Salahdine prison,[27] and to improve sanitation and hygiene conditions,[28] including ventilation systems;[29]

(e) Information on measures taken to provide appropriate medical care in prisons and, in particular, to increase access to medication, as well as on the number of psychiatrists and dentists;[30]

(f) Information on steps taken to ensure that every detainee can enjoy at least one hour of physical exercise outdoors each day,[31] including at Salahdine prison,[32] and to set up a prison education programme and facilitate access to vocational training, work, recreational and cultural activities.[33]

17. Please supply data for the period since 2013, disaggregated by year, concerning:

(a) Measures taken to reduce violence among detainees, such as the attacks that took place in Dar Naïm prison in 2015 and resulted in the death of two persons, and measures to prevent detainees from being raped with the complicity of prison officers;

(b) Steps taken to establish a specialized prison corps, which enjoys civil status and employs women, especially in women's prisons. Please also indicate the measures taken to monitor self-management in prisons with the aim of preventing abuse and corruption;

(c) The number of deaths in detention and their cause; the number of investigations conducted into deaths and cases of violence and ill-treatment in detention or

[22] See A/HRC/34/54/Add.1, para. 23.
[23] See CAT/C/MRT/2, paras. 114 to 135.
[24] See A/HRC/34/54/Add.1, para. 44.
[25] Ibid., paras. 64, 65 and 118 (e).
[26] Ibid., para. 48.
[27] Ibid., para. 53.
[28] Ibid., para. 47.
[29] Ibid., para. 118 (i).
[30] Ibid., paras. 118 (g) and (h).
[31] Ibid., para. 49.
[32] Ibid., para. 53.
[33] Ibid., para. 50.

during transfers; the outcome of those investigations; the number of deaths and cases of ill-treatment attributed to violence inflicted by State agents, the excessive use of force, or negligence; the number of cases prosecuted; the sentences handed down; and the criminal and disciplinary sanctions imposed, including the length of any prison sentences. Please indicate, in particular, whether investigations have been conducted into the allegations of torture and ill-treatment, or negligence resulting in the death of detainees, committed by State agents against: (i) convicted prisoner No. RP 0526 and remand prisoners Nos. 1547/2013 and 0234/2013 in Dar Naïm prison on 9 November 2013; (ii) Abdellahi Matalla Saleck and Moussa Bilal Biram; (iii) a detainee with heart problems who died on 16 March 2015 in Dar Naïm, following an injection administered by the doctor which proved to be fatal; and (iv) a detainee who died in 2014 in Rosso prison as a result of assault and battery.

18. In the light of reports of prolonged solitary confinement of convicted terrorists,[34] please provide information on the regulations governing the use of solitary confinement.

Articles 12–13

19. In view of the reports of torture and ill-treatment committed by members of the police force and the gendarmerie,[35] please provide annual statistics for the period since 2013, disaggregated by the type of offence and by the gender, age group and ethnicity of the victim, on: (a) the number of complaints received by prosecutors or any other competent authority, or investigation reports submitted, regarding offences such as the attempted or actual commission of acts of torture or ill-treatment, or complicity or participation in such acts, by public security officers or with the consent or acquiescence of those officers; (b) how many of the complaints led to a criminal or disciplinary investigation; (c) how many were dismissed; (d) how many resulted in prosecution; (e) how many led to a conviction; and (f) the penal and disciplinary sanctions that were imposed, specifying the length of any prison sentences. Please indicate, in particular, whether investigations have been conducted into the allegations of torture and ill-treatment: (i) during the questioning and interrogation of around 20 persons arrested near to Bouamatou hospital, in August and November 2016; (ii) following the arrest of 19 people from the Kéké I-II and III areas of Tékane district (Trarza region), on 10 April 2017; (iii) of Yéro Abdoulaye Sow, who was arrested at checkpoint PK 25 in Nouakchott on 16 August 2016; and (iv) of Mohamed Ould Haiba, who was allegedly severely beaten in the street in Teyarett, in the first district of Nouakchott, and at Zaatar police station, by a group of gendarmes and if so, what the outcomes of those investigations were.

20. Taking into account the information contained in the State party's report,[36] please comment on the reports that, in many cases, prosecutors and examining judges made no attempt to investigate allegations of torture and ill-treatment.[37] In this regard, please describe the measures taken by the Inspectorate General of the Ministry of Justice to monitor and punish misconduct of this kind. Please also explain what has been done to prevent interference by the executive branch in investigations, given that the President of the Republic and the Minister of Justice have the right to appoint judges.

21. Taking into account the Committee's previous concluding observations (para. 19) and the information in the State party's report,[38] please provide updated information on steps taken or planned to amend Act No. 92-93 on Amnesty and to investigate the allegations of torture or ill-treatment committed during the devastating events of the late 1980s and early 1990s (the so-called "*passif humanitaire*").[39] Please also describe the remedies and protection granted to victims and their families and the redress obtained by victims to date.

[34] Ibid., para. 25.
[35] Ibid., para. 18.
[36] See CAT/C/MRT/2, paras. 13 and 18.
[37] See A/HRC/34/54/Add.1, paras. 95 and 96.
[38] See CAT/C/MRT/2, para. 84.
[39] See A/HRC/34/54/Add.1, paras. 14 and 106 to 109.

22. With reference to the Committee's previous concluding observations (para. 22 (e)) and the information in the State party's report,[40] please outline the steps that will be taken to ensure the confidentiality and independence of the mechanism for the submission of complaints of torture and ill-treatment by persons deprived of their liberty.[41] Please describe the measures taken to ensure that:

(a) Detainees are able to communicate confidentially with prosecutors and judges visiting places of detention;[42]

(b) Allegations of torture and ill-treatment are admitted at all stages of judicial proceedings.[43]

23. In the light of article 20 of the new Act on Combating Torture, please describe the measures established by decree to protect victims of torture and ill-treatment, witnesses and investigators, as well as their families, from any intimidation or reprisals relating to complaints filed.

Article 14

24. Taking into account the Committee's previous concluding observations (para. 20) and articles 21 and 22 of the new Act on Combating Torture,[44] please supply more information on measures intended to guarantee that all victims of torture and ill-treatment are provided with the means required for them to achieve the fullest possible rehabilitation.

25. Please provide annual statistical data on redress and compensation, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or ill-treatment and their families since the consideration of the previous periodic report in 2013. This information should include the number of: (a) applications lodged for State compensation for torture and ill-treatment; (b) applications time-barred due to the courts' inaction; and (c) applications granted, and the range of awards in successful cases.

Article 15

26. In the light of the Committee's previous concluding observations (para. 8 (c)) and article 6 of the new Act on Combating Torture, please describe the measures taken to ensure that the exclusionary rule with regard to evidence obtained under torture is fully implemented by the courts.[45] Please provide, for the period since 2013, statistical data on the number of cases in which detainees have alleged that their confessions were extracted through torture, the number of cases in which confessions have been declared inadmissible, the number of complaints of this kind that have been investigated and the outcomes of those investigations, including sentences handed down to those found guilty and redress and compensation granted to victims.

Article 16

27. Taking into account the testimonies heard by the Special Rapporteur on torture of demonstrators being dispersed through the use of excessive force and violent means by law enforcement officers,[46] including during demonstrations in January 2015 and June 2016, please provide data, for the period since 2013, disaggregated by the type of offence and by the gender, age group and ethnicity of victims, on: (a) the number of complaints received by prosecutors or any other competent authority, or investigation reports submitted, concerning the excessive use of force by law enforcement officers; (b) how many of those complaints led to a criminal or disciplinary investigation; (c) how many were dismissed; (d) how many resulted in prosecution; (e) how many led to a conviction; and (f) the criminal and disciplinary sanctions that were imposed, specifying the length of prison sentences,

[40] See CAT/C/MRT/2, para. 132.
[41] See A/HRC/34/54/Add.1, paras. 90 and 120 (e).
[42] Ibid., para. 120 (e).
[43] Ibid., para. 120 (b).
[44] See CAT/C/MRT/2, paras. 87 to 89.
[45] See A/HRC/34/54/Add.1, para. 120 (d).
[46] Ibid., paras. 28 to 30.

where appropriate, the sentences handed down to those found guilty and redress and compensation granted to victims. Please indicate, in particular, whether investigations were conducted into the allegations of excessive use of force during: (i) the demonstration held by several human rights organizations in Nouakchott in April 2017 and (ii) the mass round-ups in the El Mina and Sebkha areas of the fifth and sixth districts of the capital on 29 February 2016. Please also describe the measures that will be taken to guarantee the non-repetition of such abuse. Please specify whether investigations have been opened into the allegations of torture against persons arrested during the demonstrations to protest evictions in Nouakchott in June 2016 and, if so, what the outcomes of the investigations were.

28. Please describe the steps that will be taken to limit the use of the death penalty and to ensure that all persons on death row are afforded the protection provided by the Convention. In this regard, please describe the conditions of detention that apply to persons sentenced to death, including the use of solitary confinement and restraints.

29. Taking into account the Committee's previous concluding observations (para. 20), please outline any plans to amend the Criminal Code and to remove the references to *hadd* penalties (amputation and whipping),[47] forced labour and *qisas* penalties, where the principle of retaliation is applied in cases of violence and assault at the discretion of the victim or the victim's family or clan.

30. Further to the indication in the report[48] that the draft children's code criminalizes corporal punishment, please specify whether this draft contains a clear and explicit prohibition of corporal punishment in all contexts and provide updated information on the progress made towards the adoption of the draft. In the light of reports that corporal punishment has been used by staff at the centre for young offenders, please state whether those acts have been investigated and if so, what the outcome of the investigation was. Please provide information on measures taken to eradicate these practices and to encourage the use of non-violent forms of discipline.

Other issues

31. Please indicate whether the State party is considering accepting the competence of the Committee under articles 20 and 22 of the Convention.

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[47] See CRC/C//MRT/CO/2, paras. 40 and 41.

[48] See CAT/C/MRT/2, paras. 143 and 144.